



# USAID | BOSNIA-HERZEGOVINA

## ACTION MEMORANDUM

**Date:** August 22, 2014

**TO:** David J. Barth, Mission Director, Mission Competition Advocate

**FROM:** Amira Vejzagic Ramhorst, Deputy EDO Director *[Signature]*  
Vladimir Milin, EDO Project Management Specialist

**SUBJECT:** JUSTIFICATION AND APPROVAL FOR OTHER THAN FULL AND OPEN COMPETITION (J&A) FOR TEC INCREASE AND TIME EXTENSION TO FOSTERING AGRICULTURAL MARKETS ACTIVITY (FARMA)

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1. This document sets forth the facts and rationale justifying the use of other than full and open competition. In accordance with FAR 6.302-2, when the Agency's need for the supplies or services is of such an unusual and compelling urgency the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals, full and open competition need not be provided for.

This document was prepared by Vladimir Milin, USAID/Bosnia-Herzegovina Economic Development Office, Alternate COR for the Fostering Agricultural Markets Activity (FARMA).

**2. The nature and/or description of the action being approved:**

This is a request to approve, on a non-competitive basis, an increase to the total estimated cost plus fixed fee (TEC+FF) by \$3,000,000 and to extend the completion date for an additional three months under Contract No. 168-C-00-09-00102-00 with Chemonics International, Inc. This will allow Chemonics to provide emergency technical assistance and administer a small grants program to farmers and agriculture producers affected by recent floods under the FARMA project. The objective of the assistance program under this proposed, urgently needed action is to restore the agricultural production and income of the most affected farmers and reconnect rural communities and markets in selected geographic areas of BiH affected by recent catastrophic floods.

The TEC+FF, three-year, contract was competitively awarded on August 31, 2009 with a TEC+FF of \$10,644,043 and a priced option for one additional year in an amount of 2,970,745. Modification number 8 exercised the option on May 4, 2012, increasing the contract value by \$2,970,745 from \$10,644,043 to \$13,614,788 and an additional \$383,898 was added for a new position of senior technical advisor bringing the TEC to a new total of \$13,998,686.

On February 4, 2013, the TEC+FF was again raised by \$5,000,000 from \$13,998,686 to \$18,998,686 and the contract completion date was extended to February 28, 2015, in accordance with the Changes Clause, FAR 52.243.2. On March 24, 2014, an additional \$248,614.00 was added to create CLIN 3 which increased the TEC+FF to \$19,247,300.00. This proposed contract modification will increase the TEC+FF by an additional \$3 million from \$19,247,300 to \$22,247,300 and extend the period of performance to May 26, 2015.

### **3. Description of the supplies or services required, including an estimated value:**

The estimated value of the assistance program anticipated under this contract modification amounts to US \$3 million and will be co-financed by the Swedish International Development Agency (SIDA). USAID is funding \$2 million with SIDA proposing to fund up to US \$1 million. The Joint Financing Agreement between USAID/BIH and SIDA was signed on July 15, 2014, to co-finance activities proposed under the project extension and TEC increase.

The Mission seeks to provide assistance to the BiH agricultural community to mitigate the negative economic and social impact of the most disastrous flooding in recorded history. The main objective of these activities is to help restore the agricultural production and income to the most affected farmers and to reconnect rural communities and markets through technical assistance and a small grants program. The ultimate beneficiaries are farmers and agricultural producers in communities in selected regions of BiH most affected by the catastrophic floods.

The assistance will focus on following:

- a) technical assistance to farmers and agricultural producers to manage recovery of agricultural production, and;
- b) small grants to farmers and agricultural producers to obtain agricultural inputs, farming equipment, and replanting crops;

The nature and scope of the proposed activities do not materially deviate from the originally approved statement of work. Assistance to private agricultural producers and farmers for the purpose of restarting and expanding agricultural production continue to be the main focus.

### **4. Statutory authority permitting other than full and open competition:**

Statutory authority permitting the TEC increase and time extension can be found at FAR Part 6.302-2, "Unusual and Compelling Urgency" which provides:

*(2) When the Agency's need for supplies and services is of such an unusual and compelling urgency the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals, full and open competition need not be provided for.*

The Section specifies at FAR Part 6.302.2 (b) that

*"This authority applies in situations where.*

- (1) an unusual and compelling urgency precludes full and open competition, and*
- (2) delay in award of a contract would result in serious injury, financial or other to the Government."*

In this case, the magnitude of devastation to the agricultural sector and livelihoods of BiH citizens resulting from the floods constituted an "unusual and compelling urgency" under FAR Part 6.302.2(b)(1). Specifically, reports indicate that three months' of rain fell in a matter of days, making this the worst flooding in the country's recorded history. Landslides and flooding affected more than 30% of the country, completely devastating dozens of communities, thousands of hectares of agricultural land, homes, and hundreds of businesses. The floods disrupted basic services, including production and delivery of food, drinking water, healthcare, and schooling, thereby putting children at risk of malnutrition and disease. The UN Food and Agriculture Organization (FAO) estimated damages to

agricultural production in the amount of approximately \$140 million which does not include estimated damages to infrastructure and rural households. Approximately 70,000 hectares of land were flooded causing significant damage to agricultural crops.

In addition, a delay in award of a contract to respond to the flooding would result in serious injury to the Government under FAR Part 6.302.2(b)(2). USAID's Mission in BiH is universally recognized both by the host country Government and other donors as the leading donor in agricultural and agribusiness sector development. Through its portfolio of projects, USAID/BiH has invested substantial resources to assist private sector producers and processors in dairy, fruit/vegetables and medicinal and aromatic plant subsectors in BiH. The recent floods affected agriculture production in nearly one third of BiH municipalities putting at risk the primary sources of economic opportunities for citizens of those areas, as well as USAID's investments and achievements to date. Indeed, USAID's successful implementation of agriculture/agribusiness (and other private sector) assistance programs has successfully attracted other donors to partner with USAID/BiH, enabling the Mission to leverage in excess of US \$27 million of other donor's funds to co-finance USAID assistance programs over a period of approximately 10 years. In the aftermath of floods, USAID/BiH provided urgent assistance and also mobilized other donors. While many international donors expressed interest in financing the repairs of necessary public infrastructure and housing, the potential loss of income due to damages to private producers and processors remains the greatest challenge and risk to the BiH economy and stability, as well as to USAID's investments and achievements in this area. USAID's ability to respond immediately to the flooding under the existing contract allowed the Mission to leverage \$1 million through a Joint Financing Agreement signed on July 15, 2014, with SIDA to co-finance continuation of the FARMA project.

Failure to quickly mobilize assistance to the flood-affected areas would:

- (a) put at risk past USAID investments and achievements in developing private sector agriculture producers/processors (significant number of producers/processors damaged in floods are either beneficiaries of past programs or critical to successful operation of value-chains), and;
- (b) significantly reduce the ability of USAID/BiH to leverage critical funding from other donors, to continue to provide time-critical assistance to host government programs.

Either result would constitute a serious injury to the Government as defined in FAR 6.302.2 (b) (2).<sup>1</sup>

In addition, FAR Part 6.302-2(d) requires.

*(d) Period of Performance.*

*(1) The total period of performance of a contract awarded using this authority --*

*(i) May not exceed the time necessary—*

*(A) To meet the unusual and compelling requirements of the work to be performed under the contract; and*

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<sup>1</sup> Accordingly, consistent with FAR Part 6.302-2 (c), this justification has been made after contract award, as its preparation and approval prior to award would have unreasonably delayed the acquisition.

*(B) For the agency to enter into another contract for the required goods and services through the use of competitive procedures; and*

*(ii) May not exceed one year unless the head of the agency entering into the contract determines that exceptional circumstances apply.*

The proposed contract modification anticipates a three-month extension and meets the period of performance requirements.

**5. A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited:**

The nature of this acquisition: responding to the immediate needs of the flooding disaster, required the use of the "unusual and compelling urgency" authority as an exception to competition. The disastrous flooding created a situation of urgency and chaos in BiH. Providing needed technical assistance was critical to adequately respond to the potentially dire consequences of the flooding and to protect USAID's past investments of assistance in the agricultural sector.

At the time of the floods, the FARMA project had been the USAID/BiH Mission's primary mechanism for providing assistance to the agriculture/agribusiness sector in BiH. The FARMA project was on the ground and up and running when the flooding began. The project had already established productive, collaborative relationships with critical stakeholders, including in the government and in the private sector. It had additionally successfully managed and coordinated funding from other bilateral donors. The project was positioned to immediately develop and execute a plan to support the recovery of agricultural production, re-establish livelihoods and enhance resilience of agricultural production to potential future shocks. The project had established contacts within the flood-affected communities and with local stakeholders, allowing it to manage revitalization efforts and support recovery of orchard and vegetable production, barn disinfection and hygiene practices, and animal feed strategies. In addition, the project was already positioned to coordinate the assistance made possible by the additional donor funds made possible by SIDA.

In light of the need for immediate response, and the positioning of the FARMA project, the nature of the acquisition required use of the authority of FAR Part 6.302-2.

**6. Description of the efforts made to ensure offers are solicited from as many potential sources as practicable, including whether a notice was or will be publicized as required by Federal Acquisition Regulation (FAR) 5.202 [AIDAR 705.002].**

FAR Part 6.302-2(c)(2) requires that agencies "shall request offers from as many potential sources as is practicable under the circumstances." In this case, publicizing a request for proposals in accordance with FAR Part 5.202(a)(2) was simply not practicable. The situation was desperate and fluid and the circumstances required the Agency to respond immediately. However, while not a formal request for proposals, immediately after the onset of the floods, USAID/BiH invited all current implementers, representatives of NGOs, and other donors, to a series of flood-response meetings to solicit as many ideas as possible on how to rapidly respond to the crisis. USAID/BiH received well over 100 proposals from USAID implementing partners and local organizations already operating in the flood-affected areas. An official notice was not publicized requesting proposals specifically for flood response activities in accordance with FAR Part 5.202(a)(2). To formally advertise would have put the flood-affected communities at greater risk. Their survival depended upon rapid application of relief efforts.

**7. A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable:**

USAID/BiH will conduct a cost analysis of the FARMA proposal to determine cost accuracy. This cost proposal will be compared with historical costs from the activity that were submitted over the last five years. FARMA is only submitting an extension of the contract cost estimate previously determined to be fair and reasonable. Based on this, the costs are determined to be fair and reasonable.

**8. Description of the market research conducted, and the results or a statement of the reasons market research was not conducted:**

Market research for this activity was not conducted. The Mission made a determination based on following:

The USAID/BiH Economic Development Office actively manages a portfolio of private sector development projects. Some of them are jointly financed by other donors and USAID is frequently involved in discussions and coordination meetings with many other donors in BiH. This gives EDO staff the ability to obtain the most relevant information on capabilities of US and local implementing partners in BiH.

Given this, the Mission has determined other US organizations would not be likely to mobilize highly specialized skills and develop effective relationships with relevant stakeholders (host country government partners and other donors) in the short period of time needed to provide time-critical assistance. A direct award to a local partner was not considered because there is not currently a local organization or company that has the technical expertise or breadth of experience to immediately start undertaking interventions. From a competitive standpoint, the meeting with all of USAID's in-country donors, the receipt of over 100 proposals/ideas for emergency assistance is considered a fair market research given the circumstances.

**9. Other facts supporting the use of other than full and open competition:**

As described above, the estimated damage caused by the historic floods is approximately \$2.7 billion and is estimated to cause a 1.1% drop in gross domestic product. In order to rapidly respond to this national disaster, USAID/BiH believes FARMA is the best partner on the ground to respond to revitalizing agricultural production affected by the floods. If USAID/BiH planned to compete this openly it would cause several months of delay in implementing interventions during which time subsistence farmers will be in increased risk of falling into poverty while commercial farmers may further downsize which will have an adverse impact on the value chains. FARMA is able to mobilize staff and resources immediately for these activities.

**10. Sources, if any, that expressed an interest, in writing, in the acquisition:**

Virtually all USAID's in-country partners, in their respective areas, expressed interest in providing needed emergency assistance. Another reason for the selection of FARMA to provide this assistance is the issue of technical specialization. The implementer was in the best position to provide emergency assistance in this particular area. All that was needed was for the organization to provide accelerated assistance under their current statement of work or program description.


**11. The actions the Agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required:**

No other subsequent related acquisitions for services are anticipated. And the nature of this acquisition was not based on a barrier to competition.

**12. Technical or requirement personnel certification:**

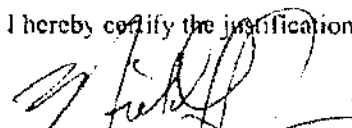
In accordance with FAR 6.303.2(b)(12), I hereby certify the technical statements included above and which form a basis for the justification are complete and accurate.

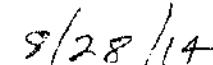
  
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Technical Office Representative

  
\_\_\_\_\_  
Date

**13. Contracting Officer Certifications:**

I hereby certify the justification is accurate and complete to the best of my knowledge and belief.

  
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Neil G. Price, Contracting Officer

  
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Date

**14. Approved**  
  
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David J. Barth, Mission Competition Advocate

  
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Date

**Disapproved**

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David J. Barth, Mission Competition Advocate

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Date

CLEARANCES:

Initial

Date

Laura Gonzales, RLO  
Jean Horton, Acting Agency Competition Advocate

*Suzanne Johnson*

      E-Mail       08/22/2014  
*[Signature]* 8-29-14